

(ii) The following statutes and regulations are part of the approved state program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include: Massachusetts General Laws, Chapter 148, Section 4; Sections 38D, 38F, 38I through 38H; Massachusetts General Law, Chapter 21E, The Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, Amended 1992 Massachusetts General Laws, Sections 7, 9, and 11, and Chapter 21J, Sections 2–4; and, Massachusetts General Law, Chapter 185, Section 3.

(B) The regulatory provisions include: Massachusetts Board of Fire Prevention Rules, 527 CMR Sections 9.07(J); and, Massachusetts Environmental Protection Rules, and those provisions of 310 CMR Sections 40.0000 Subparts A–O only insofar as they pertain to the regulation of underground storage tanks in Massachusetts and are not incorporated by reference and only insofar as they are not broader in scope than the federal requirements.

(iii) The following statutory and regulatory provisions are broader in scope than the federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes.

(A) Massachusetts Board of Fire Prevention Rules, Sections 9.03 through 9.04 which pertain to aboveground tanks; 9.05A(4) insofar as it refers to upgrade requirements for new or replacement underground tanks for consumptive use on the premises; 9.06 (A) and (B) insofar as they refer to aboveground tanks; and 9.07(J) insofar as it refers to aboveground tanks, and those provisions of 310 CMR 40.0000 Subparts A–O insofar as they do not relate to underground storage tanks and with respect to underground storage tanks insofar as they are broader in scope than the federal requirements.

(B) [Reserved]

(2) *Statement of legal authority.* (i) “Attorney General’s Statement for Final Approval”, signed by the Attorney General of Massachusetts on August 18, 1993, though not incorporated by reference, is part of the approved underground storage tank program

under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of Massachusetts to EPA, August 18, 1993, though not incorporated by reference, is part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The “Demonstration of Procedures for Adequate Enforcement” submitted as part of the original application in December 1991, though not incorporated by reference, is part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program description.* The Program Description (PD) and any other material submitted as part of the original application in December 1991, though not incorporated by reference, are part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The April 30, 1995, EPA and the Massachusetts Department of Public Safety and the Massachusetts Department of Environmental Protection Memorandum of Agreement (MOA), though not incorporated by reference, is part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

[61 FR 56136, Oct. 31, 1996]

§ 282.72 [Reserved]

§ 282.73 Minnesota State-Administered Program.

(a) The State of Minnesota’s underground storage tank program is approved in lieu of the Federal program in accordance with Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State’s program, as administered by the Minnesota Pollution Control Agency, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Minnesota underground storage tank program on November 30, 2001, and approval was effective on December 31, 2001.

(b) Minnesota has primary responsibility for enforcing its underground

Environmental Protection Agency

§ 282.73

storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) To retain program approval, Minnesota must revise its approved program to adopt new changes to the Federal Subtitle I program that make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Minnesota obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the FEDERAL REGISTER.

(d) Minnesota has final approval for the following elements submitted to EPA in the State's program application for final approval. On November 30, 2001, EPA published a rule approving the State's program in the FEDERAL REGISTER, 66 FR 59713. That approval became effective on December 31, 2001. Copies of Minnesota's program application may be obtained from the Minnesota Pollution Control Agency, UST/LUST Program, 520 Lafayette Road North, St. Paul, MN 55155-3898.

(1) *State statutes and regulations.* (i) The provisions cited in paragraph (d)(1)(i) of this section are incorporated by reference as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) Minnesota Statutory Requirements Applicable to the Underground Storage Tank Program, 2000.

(B) Minnesota Regulatory Requirements Applicable to the Underground Storage Tank Program, 2000.

(ii) EPA considered the following statutes and regulations in evaluating the State program, but did not incorporate them by reference.

(A) The statutory provisions include:

(1) *Minnesota Statutes, Chapter 13, Government Data Practices*

M. S. 13.08 Civil remedies
M. S. 13.09 Penalties

(2) *Minnesota Statutes, Chapter 115, Water Pollution Control; Sanitary Districts*

M. S. 115.04 Disposal Systems and Point Sources; subd. 1, 2, 3: Information; Examination of records; Access to premises

M. S. 115.071 Enforcement

M. S. 115.072 Recovery of Litigation Costs and Expenses

(3) *Minnesota Statutes, Chapter 115B, Environmental Response and Liability*

M. S. 115B.17 State response to releases; subd. 4: Access to information and property

M. S. 115B.175 Voluntary Response Actions; Liability Protection; Procedures

M. S. 115B.177 Owner of Real Property Affected by Off-Site Release

M. S. 115B.178 Association with Release; Commissioner's Determination

M. S. 115B.18 Failure to Take Requested Action; Civil Penalties; Action to Compel Performance; Injunctive Relief

(4) *Minnesota Statutes, Chapter 115C, Petroleum Tank Release Cleanup*

M. S. 115C.04 Liability for Response Costs

M. S. 115C.05 Civil Penalty

M. S. 115C.09 Reimbursement; subd. 5(b), 6: Return of reimbursement; Fraud

M. S. 115C.113 Orders

M. S. 115C.12 Appeal of reimbursement determination

(5) *Minnesota Statutes, Chapter 116, Pollution Control Agency*

M. S. 116.07 Powers and Duties; subd. 9(b): Orders; investigations

M. S. 116.072 Administrative Penalties

M. S. 116.073 Field Citations

M. S. 116.091 Systems and Facilities

M. S. 116.11 Emergency Powers

(6) *Minnesota Statutes, Chapter 116B, Environmental Rights*

M. S. 116B.03 Civil Actions

M. S. 116B.07 Relief

(B) The regulatory provisions include:

(1) *Minnesota Rules of Civil Procedure*

Rule 24.01 Intervention of Right

Rule 24.02 Permissive Intervention

(2) *Minnesota Rules, Chapter 2890, Petroleum Tank Releases*

2890.0100 Review and Determination

2890.0110 Right to Appeal

2890.0130 Action on Notice of Lien Filing

(3) *Minnesota Rules, Chapter 7000, Procedural Rule*

§ 282.73

- M. S. 7000.0300 Duty of Candor
- M. S. 7000.0900 Informal Complaints
- M. S. 7000.1200 Inspection of Public Records
- M. S. 7000.1300 Confidential Information

(iii) The following statutory and regulatory provisions are broader in scope than the Federal program, and are not part of the approved program, and are not incorporated by reference. These provisions are not federally enforceable.

(A) The statutory provisions include:

(1) *Minnesota Statutes, Chapter 115C, Petroleum Tank Release Cleanup*

- M. S. 115C.03 Response to releases [insofar as subd. 10 imposes recordkeeping requirements on contractors and consultants.]
- M. S. 115C.045 Kickbacks [insofar as it applies to individuals other than UST system owners and operators.]
- M. S. 115C.065 Consultants' or Contractors' duty to notify [insofar as it imposes notification requirements on contractors and consultants.]
- M. S. 115C.08 Petroleum tank fund [insofar as subd. 3 imposes a petroleum tank release cleanup fee on petroleum distributors.]
- M. S. 115C.11 Consultants and contractors; sanctions [insofar as it applies to individuals other than UST system owners and operators.]
- M. S. 115C.111 Consultant and contractor sanctions; actions based on conduct occurring before March 14, 1996 [insofar as it applies to individuals other than UST system owners and operators.]
- M. S. 115C.112 Consultant and contractor sanctions; actions based on conduct occurring on and after March 14, 1996 [insofar as it applies to individuals other than UST system owners and operators.]

(2) *Minnesota Statutes, Chapter 116, Pollution Control Agency*

- M. S. 116.46 Definitions [insofar as subd. 8 includes vessels, enclosures, or structures—which are exempt from the federal program—in the definition of UST.]
- M. S. 116.47 Exemptions [insofar as paragraph (2) does not exclude from regulation USTs of 1,100 gallon capacity or more used to store heating oil for consumptive use.]
- M. S. 116.48 Notification requirements [insofar as subd. 1(b) requires that the owner of an AST must notify the MPCA of the tank's status.]
- M. S. 116.48 Notification requirements [insofar as subd. 2 imposes requirements on owners who discover an abandoned AST.]
- M. S. 116.48 Notification requirements [insofar as subd. 3 imposes notification requirements on owners of ASTs removing a tank from service or changing the tank's service.]

40 CFR Ch. I (7–1–14 Edition)

- M. S. 116.48 Notification requirements [insofar as subd. 4 places notification requirements on persons transferring the title to regulated substances to be placed directly into an UST.]
- M. S. 116.48 Notification requirements [insofar as subd. 5 imposes notification requirements on sellers of ASTs.]
- M. S. 116.48 Notification requirements [insofar as subd. 6 imposes notification requirements on owners who plan to transfer ownership of property containing an AST.]
- M. S. 116.491 Tank installers training and certification [insofar as it applies to individuals other than UST system owners and operators.]
- M. S. 116.492 Basement storage tanks; removal [insofar as it applies to a class of tanks not regulated under the federal program.]

(B) The regulatory provisions include:

(1) *Minnesota Rules, Chapter 7105—Minnesota Pollution Control Agency, Water Quality Division, Underground Storage Tanks: Training* (In addition to the other specific reasons noted, the following sections of Chapter 7105 are broader in scope, insofar as they set forth training requirements for persons not regulated under the federal program.)

- 7105.0010 Definitions [insofar as subp. 25 includes vessels, enclosures, and structures—which are exempt from the federal program—in the definition of UST.]
- 7105.0030 General Provisions; Certification requirements and deadlines; Certificate availability [insofar as subp. 1 and 2 require training for individuals not regulated under the federal program.]
- 7105.0040 Exclusions [insofar as it does not exclude from regulation heating oil storage tanks with a capacity of greater than 1,100 gallons.]
- 7105.0050 Contractor Certification
- 7105.0060 Supervisor Certification
- 7105.0070 Standards of Performance
- 7105.0080 Storage Tank Service Provider Training Course Requirements
- 7105.0090 Examinations and Diplomas
- 7105.0100 Approval of Certification Training Courses
- 7105.0110 Sanctions
- 7105.0120 Fees
- 7105.0130 Incorporation by Reference

(2) *Minnesota Rules, Chapter 7150—Minnesota Pollution Control Agency, Water Quality Division, Underground Storage Tanks Program*

- 7150.0010 Applicability [insofar as subp. 2 does not exclude from regulation liquid traps or associated gathering lines directly

Environmental Protection Agency

§ 282.74

related to oil and gas production and gathering operations.]

7150.0010 Applicability [insofar as subp. 2(H) does not exclude from regulation heating oil storage tanks with a storage capacity of greater than 1,100 gallons.]

7150.0010 Applicability [insofar as subp. 5 does not exclude owners and operators of heating oil storage tanks with a storage capacity of greater than 1,100 gallons from notification requirements.]

7150.0030 Definitions [insofar as subp. 51 includes vessels, enclosures, and structures—which are exempt from the federal program—in the definition of UST.]

7150.0300 General Requirements for All Underground Storage Tank Systems [insofar as subp. 3 imposes release detection schedule requirements on hazardous material tanks not regulated under the federal program.]

(3) *Minnesota Rules, Chapter 7510—Department of Public Safety, Fire Marshal Division, Fire Safety*

7510.3670 Liquefied Petroleum Gases; Section 8203: Installation of Containers [insofar as it regulates ASTs.]

(2) *Statement of legal authority.* (i) “Attorney General’s Statement,” signed by the State Attorney General on September 12, 2000, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of Minnesota to EPA, September 12, 2000, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The “Demonstration of Procedures for Adequate Enforcement” submitted as part of the original application on May 11, 2000, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program Description.* The program description and any other material submitted as part of the original application on May 11, 2000, though not incorporated by reference, are referenced as part of the approved underground storage tank program in accordance

with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 5 and the Minnesota Pollution Control Agency, signed by the EPA Regional Administrator on November 14, 2001, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

[70 FR 29360, May 24, 2005]

§ 282.74 Mississippi State-Administered Program.

(a) The State of Mississippi is approved to administer and enforce an underground storage tank program in lieu of the federal program under subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State’s program, as administered by the Mississippi Department of Environmental Quality, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Mississippi program on June 11, 1990 and it was effective on July 11, 1990.

(b) Mississippi has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under other statutory and regulatory provisions.

(c) To retain program approval, Mississippi must revise its approved program to adopt new changes to the federal subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Mississippi obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the FEDERAL REGISTER.

(d) Mississippi has final approval for the following elements submitted to EPA in the State’s program application for final approval and approved by EPA on June 11, 1990. Copies may be